

1 David Morris Clayman / דוד משה קלימן / אַדְם דָוִד קָלִימָן, *Pro se*

FILED BY *ABUL* D.C.

OCT 24 2025

ANGELA E. NOBLE
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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA5
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7 David Morris Clayman (/ אַדְם דָוִד קָלִימָן),
8 Plaintiff,

9 vs.

10 UNITED STATES OF AMERICA
et. al.5
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CASE NO. 9:25-CV-80890-WMPLAINTIFF'S MOTION FOR LEAVE
TO FILE SUR-REPLY RESPONDING
TO DEFENDANT'S REPLY IN
SUPPORT OF FIRST AMENDED
MOTION TO DISMISS AND MOTION
TO DEEM SUR-REPLY FILED
IMMEDIATELY (INSTANTER)

Completed Full Prefiling
Checklist Before Printing

PLAINTIFF'S MOTION FOR LEAVE TO FILE SUR-REPLY IN OPPOSITION
TO DEFENDANTS' REPLY IN SUPPORT OF FIRST AMENDED MOTION TO
DISMISS AND MOTION TO DEEM SUR-REPLY FILED INSTANTER

Plaintiff David Morris Clayman, appearing *pro se*, respectfully moves pursuant to the Court's inherent authority and Local Rule 7.1(c) for leave to file the attached **Sur-Reply in Opposition to Defendants' Reply in Support of First Amended Motion to Dismiss the First Amended Complaint** [D.E. 53], and to deem that sur-reply filed immediately (instanter) upon the Court's grant of this motion.

I. Good Cause

Defendants' Reply [D.E. 53] introduces **new arguments and factual assertions** that were **not raised** in their Motion to Dismiss [D.E. 27], including:

1. A new **res judicata / claim-preclusion** defense based on *New Doe Child No. 1 v. Congress of the U.S.*, 891 F.3d 578 (6th Cir. 2018);
2. A newly asserted factual claim that **bail-bondsmen** constitute a religiously adequate

1 non-punitive alternative to cash bail;

2 3. A new **debit-versus-credit** distinction asserting that Plaintiff's burdens are "mere
inconvenience";

4 4. A new argument that **federal defendants are not responsible** for "cash-only" bail
practices; and

5 5. Expanded reliance on *Hobby Lobby* and *Yoder* to introduce a **comparative-penalty test**
absent from the Motion.

6 Because these issues were raised for the first time in the Reply, Plaintiff has not previously had an
7 opportunity to respond. Courts in this District routinely allow sur-replies when a movant raises
8 new arguments or evidence.

11 **II. Scope and Efficiency**

12 The proposed Sur-Reply (attached as Exhibit A) is narrowly tailored to those newly raised issues
13 and does not repeat prior briefing. Granting leave and deeming it filed *instanter* will promote
14 judicial efficiency and a fully developed record before the Court rules on the dispositive motion.

16 **III. Relief Requested**

17 Plaintiff respectfully requests that the Court:

- 18 1. **Grant** this Motion for Leave;
- 19 2. **Deem the attached Sur-Reply (Exhibit A) filed instanter** as Plaintiff's authorized
20 response to new matters raised in Defendants' Reply [D.E. 53]; and
- 21 3. Grant such further relief as the Court deems just and proper.

22 Respectfully submitted this 24th day of October 2025.

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27 s/Plaintiff David Clayman, Still *Pro se*
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CERTIFICATE OF SERVICE – ELECTRONIC AND PAPER SERVICE

I HEREBY CERTIFY that on this 24th day of October, 2025, I served a copy of this motion electronically upon opposing counsel of record and, as required by the rules governing pro se litigants in the Southern District of Florida, subsequently printed and mailed a copy of this filing to the Court by certified mail.

I respectfully preserve an objection that the categorical prohibition on electronic filing and service for even non-prisoner pro se litigants imposes unequal substantial burdens that place pro se parties at a significant and severe disadvantage in the Southern District of Florida and other lagging edge judicial district locales compared with attorneys and represented litigants.

/s/ David M. Clayman
Pro Se Plaintiff